

John Doe #3

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8 **UNITED STATES DISTRICT COURT**
9 **WESTERN DISTRICT OF WASHINGTON**
10 **TACOMA DIVISION**

11 JOHN DOE #1, an individual, JOHN DOE #2,
12 an individual, and PROTECT MARRIAGE
WASHINGTON,

13 Plaintiffs,

14 vs.

15 SAM REED, in his official capacity as
16 Secretary of State of Washington, BRENDA
GALARZA, in her official capacity as Public
Records Officer for the Secretary of State of
Washington,

17 Defendants.
18

No. 3:09-CV-05456-BHS

19 **DECLARATION OF**
20 **[REDACTED]**
21 **IN SUPPORT OF MOTION FOR**
22 **PRELIMINARY INJUNCTION**

23 NOTE ON MOTION CALENDAR:
24 September 3, 2009

25 The Honorable Benjamin H. Settle

26 I, [REDACTED] make the following declaration pursuant to 28 U.S.C. § 1746:

27 1. I am a resident of the state of Washington over 18 years of age, and my statements herein
28 are based on personal knowledge.

2. I have been aware of Referendum 71 since it was filed in Olympia. Although I did not go
out and gather signatures, I approved of having the petition available at the church where I am
Pastor, so that members of my congregation could sign.

3. On July 27, 2009, I received a phone call at my office from an individual who identified
herself as a transgender woman, who had previously been a member of special forces. The caller
remained calm, but persistent, in asking why I would want to limit her rights.

Declaration of
[REDACTED]
(No. 3:09-CV-05456-BHS)

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BOPP, COLESON & BOSTROM
1 South Sixth Street
Terre Haute, Indiana 47807-3510
(812) 232-2434

John Doe #3

1 4. After several statements back and forth, the caller asked how I would like it if a number of
2 her friends were brought to picket the church or to attend a morning service. I responded that the
3 church is open to all who wish to come, but we expect everyone to conduct themselves in a way
4 appropriate to a public worship service. The caller assured me that this would be the case.

5 5. This caller was reserved in tone, but the spirit of the call was certainly one of challenge to
6 the appropriateness of my stand. The caller also communicated that my opinion justified some
7 kind of retaliatory action on his/her part, so that I - and others who are like-minded - will pay
8 some kind of bad consequence for the expression of our opinions.

9 6. On August 12, 2009, my secretary received a phone call while I was out of the office. The
10 caller identified herself as Krystal Mountaine, and called from the same number as the caller who
11 called on July 27, 2009. She stated that she would like to talk to the Pastor, and asked to have
12 me call. I have not returned this call.

13 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
14 AND CORRECT.

15
16 Executed on: August [REDACTED] 2009.

17 [REDACTED]
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19 Signed: [REDACTED]
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CERTIFICATE OF SERVICE

I, Scott F. Bieniek, am over the age of 18 years and not a party to the above-captioned action. My business address is 1 South Sixth Street; Terre Haute, Indiana 47807-3510.

On September 1, 2009, I electronically filed the foregoing document described as Declaration of John Doe #3 in Support of Motion for Preliminary Injunction with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

James K. Pharris
jamesp@atg.wa.gov
Counsel for Defendants Sam Reed and Brenda Galarza

Steven J. Dixon
sjd@wkdllaw.com
Duane M. Swinton
dms@wkdllaw.com
Counsel for Proposed Intervenor Washington Coalition for Open Government

Ryan McBrayer
rmcbrayer@perkinscoie.com
Counsel for Proposed Intervenor Washington Families Standing Together

And, pursuant to Fed. R. Civ. P. 5(b)(1) and 5(b)(2)(C), I served the foregoing document by placing a true and correct copy of the document in a sealed envelope with postage thereon fully prepaid, in the United States mail at Terre Haute, Indiana, addressed to the following non-CM/ECF participants:

Leslie R. Weatherhead
Witherspoon, Kelley, Davenport & Toole, P.S.
1100 U.S. Bank Building
422 W. Riverside Avenue
Spokane, WA 99201-0300
Counsel for Proposed Intervenor Washington Coalition for Open Government

Kevin J. Hamilton
William B. Stafford
Perkins Coie, LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Counsel for Proposed Intervenor Washington Families Standing Together

Arthur West
120 State Ave NE #1497
Olympia, WA 98501
*Proposed Intervenor*¹

I declare under the penalty of perjury under the laws of the State of Indiana that the above is true and correct. Executed this 1st day of September, 2009.

/s/ Scott F. Bieniek
Scott F. Bieniek
Counsel for All Plaintiffs

¹ A courtesy copy was provided via e-mail to Mr. West at awestaa@gmail.com.